

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
(LAFAYETTE DIVISION)**

REBECCA MENARD
Plaintiff

CIVIL ACTION NO.:

VERSUS

JUDGE:

RAYNE GUEST HOME, INC.
Defendant

MAGISTRATE JUDGE:

DEFENDANT’S NOTICE OF REMOVAL

INTRODUCTION

1.

On December 11, 2019, Rebecca Menard filed her Petition in the 15th Judicial District Court for the Parish of Acadia, State of Louisiana (the “Petition”) against Defendant, Rayne Guest Home, Inc. Without waiving any defenses, Defendant respectfully removes this civil action from the 15th Judicial District Court for the Parish of Acadia, State of Louisiana, to the United States District Court for the Western District of Louisiana, pursuant to 28 U.S.C. § 1441 (a).

REMOVAL PREREQUISITES

2.

Under 28 U.S.C. § 1441 (a), “any civil action brought in a State court of which the district courts have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” In the Petition, Plaintiff alleges claims against Defendant pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* The prerequisites of removal are satisfied and this case belongs in federal court.

3.

This notice of removal is properly directed to this Court pursuant to 28 U.S.C. § 1441 because this Court is “the district court of the United States for the district and division” within which the state court Petition is pending. *See* 28 U.S.C. § 98 (a).

4.

Pursuant to 28 U.S.C. § 1446 (a), Defendant attaches as Exhibit 1 a copy of all process, pleadings, and orders in this action and available in the state court record.

5.

Defendant was personally served with the Petition on December 18, 2019. Accordingly, this Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446 (b) and Rule 6 of the Federal Rules of Civil Procedure.

6.

Consents are unnecessary because there are no other defendants in this matter. 28 U.S.C. § 1446 (b) (2).

7.

Undersigned counsel certifies that, promptly after the filing of this Notice of Removal, copies of the Notice will be served on opposing counsel and filed with the Clerk of Court of the 15th Judicial District Court for the Parish of Acadia, State of Louisiana, to effect the removal of the state court action. 28 U.S.C. § 1446 (d).

8.

Although Defendant denies any and all liability for the claims alleged by Plaintiff in the Petition, Defendant files the present Notice of Removal because this case is properly removable and is subject to the Court’s original jurisdiction.

GROUND FOR REMOVAL

9.

Plaintiff's Petition alleges claims against Defendant pursuant to the overtime provisions of the Fair Labor Standards Act. "The FLSA provides that an action 'may be maintained...in any Federal or State court of competent jurisdiction,' 29 U.S.C. § 216 (b), and the district courts would in any event have original jurisdiction over FLSA claims under 28 U.S.C. § 1331, as 'arising under the Constitution, laws, or treaties of the United States,' and § 1337 (a), as 'arising under any Act of Congress regulating commerce.'" *Breuer v. Jim's Concrete of Brevard, Inc.*, 538 U.S. 691 (2003).

CONCLUSION

10.

Based on all of the above, Defendant respectfully removes to this Court case number 201911122-J from the 15th Judicial District Court of Acadia Parish, Louisiana.

Respectfully submitted,

ONEBANE LAW FIRM

BY: /s/ Lauren L. Gardner

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Attorneys for Defendant, Rayne Guest Home,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2020, a copy of the above and foregoing Notice of Removal was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by electronic mail and/or regular mail.

/s/ Lauren L. Gardner

LAUREN L. GARDNER